

**Zoning Board of Appeals Minutes
October 24, 2017**

ZBA MEMBERS	ZBA MEMBERS ABSENT	STAFF PRESENT
Jim Racheff- Chair Bryan Patchan- Vice Chair Kenneth Ying Lawrence Aronow Shuan Butcher Tom Overbey, Alternate		Gabrielle Collard– Division Manager for Current Planning Tierre Butler– City Planner Jessica Murphy – Administrative Assistant Rachel Depo—Assistant City Attorney

I. ANNOUNCEMENTS:

II. GENERAL PUBLIC COMMENT:

There was no general public comment.

III. APPROVAL OF MINUTES:

Approval of the September 26, 2017 Zoning Board of Appeals Meeting Minutes as published:

MOTION: Mr. Patchan motioned to approve the minutes.

SECOND: Mr. Aronow

VOTE: 5-0

IV. PUBLIC HEARING-SWEARING IN:

"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Zoning Board of Appeals will be the whole truth and nothing but the truth." If so, answer "I do".

V. CONTINUANCES:

NONE

VI. OLD BUSINESS:

NONE

VII. NEW BUSINESS

A. ZBA17-784V, Variance, 701 Rosemont Avenue

ZBA Action:

MOTION: Mr. Overbey moved to approve ZBA17-784V based on staff recommendation and the property itself with the following findings:

1. The variance is not contrary to the public interest as there will be no negative impacts on the provision of light, air, and access to other adjoining properties.
2. The dedication of right of way of Glenmore Avenue but the failure to construct the road as a public street presents conditions peculiar to the Property that under the strict application of the required front setback result in a practical difficulty or undue hardship to the owner.
3. The variance requested is the minimum reasonably necessary to overcome the conditions peculiar to the Property as it reflects the location of the existing garage.
4. The application of the corner lot setback requirements on a lot where the adjoining public right of way is not intended to be constructed as a public street deprives the Applicant of rights commonly enjoyed by other properties in the same district.
5. Granting the variance will not confer a special privilege on the Applicant that is denied by the LMC to other lands or structures in the same district.
6. That the granting of variance will be in harmony with the general purpose and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
7. The Applicant has not created or caused to be created the situation which necessitates the variance.

SECOND: Mr. Aronow.

VOTE: 4-0

Mr. Butcher arrived at the hearing during the testimony for this project.

B. ZBA17-773CU, Conditional Use, Palmers Addition

ZBA Action:

MOTION: Mr. Patchan moved to approve ZBA17-773CU for conditional use approval to proceed with the development project that will result in two lots with an impervious surface of greater than 50% in the Well Head Overlay finding that:

1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code.
2. The characteristics of the use and its operation on the Property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.
3. That the proposed activity will comply with all conditions and requirements set forth in this Code, including the standards specific to the Wellhead Protection Overlay found in Section 743 of the LMC and upon finding that:
 - (1) there are no contaminants used on the Property which pose an adverse effect on the health or comfort of persons;
 - (2) the use will not cause the average ground water quality on the property to violate drinking water standards promulgated by MDE and the EPA; and
 - (3) Where otherwise not prohibited due to Karst topography, the use will maintain recharge of water to the water supply aquifer consistent with no more than a 20 percent drop in recharge rates prior to development in accordance with the City's SWM practices.

Approval is conditioned upon:

1. The Applicant provide pre and post recharge rates at the time of SWM Development Plan review if lining of SWM is not provided or required.

SECOND: Mr. Aronow.
VOTE: 4-0.

C. ITEMS ADDED TO AGENDA

Zoning Determinations Completed:

- 17-751ZD, 128 Water Street
- 17-786ZD, 1709 Rosemont Ave.
- 17-791ZD, 820 Motter Ave.
- 17-815ZD, 1728 Shookstown Rd.
- 17-825ZD, 8420-8430 Gas House Pike

Meeting adjourned approximately at 8:05 p.m.

Respectfully Submitted,

Jessica Murphy
Administrative Assistant

APPROVED 02/28/2018